

**PIONEER HI-BRED INTERNATIONAL, INC.
CORPORATE INTELLECTUAL PROPERTY DEPARTMENT**

FAX TRANSMISSION

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GROUP 1600

OFFICIAL

TO: Assistant Commissioner for Patents
FROM: Louise Foutch *RAF*
RE: Our Docket No. 1270 – Serial No. 09/945,376
DATE: 12-16-02 FAX NUMBER: 703-872-9306
NUMBER OF PAGE(S) FOLLOWING THIS SHEET: 3

COMMENTS:

Attached please find the following documents for filing with the Patent Office:

1. Transmittal – Response to Restriction Requirement
2. Response to Restriction Requirement

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Transmittal of Response to Restriction Requirement was transmitted via facsimile transmission to the Assistant Commissioner for Patents, via facsimile number (703) 872-9306, on this 16th day of December, 2002.

Louise A. Foutch
Louise A. Foutch

12/16/02
Date

Docket No. 1270

Confirmation No. 2174

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Acevedo *et al.*

Date: December 16, 2002

Serial No.: 09/945,376

Group Art Unit: 1638

Filed: August 31, 2001

Examiner: Kubelik, Anne R.

For: "A MAJOR LATEX PROTEIN GENE AND PROMOTER AND THEIR USES"

Assistant Commissioner for Patents
Washington, D.C. 20231

TRANSMITTAL - RESPONSE TO RESTRICTION REQUIREMENT

Attached hereto is a Response to Restriction Requirement mailed November 26, 2002.

Although there should be no fees associated with this document the Commissioner is hereby authorized to charge any processing fees associated with this document, or to credit any overpayment, to Deposit Account 16-1852.

Respectfully submitted,

Louise A. Foutch
Louise A. Foutch
Registration No. 37,133

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Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action mailed November 26, 2002, in which the Examiner has required restriction to one of the following inventions:

- I. Claims 1-17, drawn to a promoter, DNA constructs and vectors comprising the promoter, host cells and plants comprising the DNA construct, and a method of using the construct to induce expression of a heterologous nucleic acid in a plant, classified in class 536, subclass 24.1.
- II. Claims 18-30, drawn to a nucleic acid encoding a protein of SEQ ID NO: 2, DNA constructs and vectors comprising the nucleic acid, host cells and plants comprising the DNA construct, and a method of using the construct to induce expression of a nucleic acid in a plant, classified in class 800, subclass 279.

Serial No.: 09/945,376
Group Art Unit: 1638

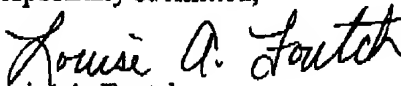
- III. Claims 31-38, drawn to a method of controlling a plant pathogen by topical application of a protein of SEQ ID NO: 2, and a protein of SEQ ID NO: 2 classified in class 514, subclass 2.

Applicants hereby provisionally elects without traverse to prosecute the claims of Group I, claims 1-17, drawn to a promoter, DNA constructs and vectors comprising the promoter, host cells and plants comprising the DNA construct, and a method of using the construct to induce expression of a heterologous nucleic acid in a plant, classified in class 536, subclass 24.1, and expressly reserve the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned attorney so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required beyond those, which may be otherwise provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore is hereby authorized to be charged to Deposit Account No. 16-1852.

Respectfully submitted,


Louise A. Foutch
Registration No. 37,133

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